

Senate File 533

S-3323

1 Amend Senate File 533 as follows:

2 1. Page 33, after line 17 by inserting:

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AUTOMATIC PROGRAM SUNSET

5 Sec. ____ . NEW SECTION. 4A.1 Definitions.

6 As used in this chapter, unless the context
7 otherwise requires:

8 1. "Agency" means the same as the term "department"
9 as defined in section 8.2.

10 2. "Committee" means the fiscal committee of the
11 legislative council created pursuant to section 2.45.

12 3. "Program" means a distinct and coherent set of
13 activities authorized by law which affects a clearly
14 definable target group, problem, or issue and which
15 can be supported by appropriations through the budget
16 process or by enactments other than appropriations, as
17 in the case of tax credits.

18 4. "Program review criteria" means the criteria
19 required to be considered under section 4A.8.

20 5. "Sunset" means the termination or repeal of the
21 law authorizing a program.

22 Sec. ____ . NEW SECTION. 4A.2 Short title.

23 This chapter shall be known as and may be cited as
24 the "Iowa Sunset Act".

25 Sec. ____ . NEW SECTION. 4A.3 Automatic sunset of
26 programs.

27 1. Unless provided otherwise by law, each new
28 program that first takes effect by law enacted on
29 or after July 1, 2011, shall sunset six years after
30 the program's effective date unless reauthorized by
31 enactment by the general assembly.

32 2. Unless a program is expressly exempted from
33 this chapter, if the law authorizing the program is
34 enacted on or after July 1, 2011, the law shall include
35 a sunset clause clearly indicating the date of the
36 program's repeal if the program is not reauthorized by
37 enactment by the general assembly.

38 3. Any program that is reauthorized by enactment
39 by the general assembly pursuant to this section shall
40 include a provision specifying that the program shall
41 sunset at a date not more than twelve years from the
42 effective date of the program's reauthorization.

43 4. Unless expressly provided by law, funding shall
44 not be expended on a program that has been sunset.

45 5. a. Any program to which money was appropriated
46 prior to July 1, 2011, may at any time be subject
47 to review of the committee by a majority vote of its
48 members for the purpose of recommending to the general
49 assembly its continuation or sunset.

50 b. If a program is subject to sunset, the committee

1 shall conduct public hearings concerning but not
2 limited to the applicability of the program review
3 criteria to the program, and shall issue a report
4 pursuant to section 4A.5. The committee may recommend
5 to the general assembly by a majority vote of its
6 members that a program under review, to which money was
7 appropriated prior to July 1, 2011, should be sunset,
8 continued, or reorganized. The committee shall submit
9 such recommendation to all members of the general
10 assembly within thirty calendar days of the vote in
11 which such recommendation is made.

12 **Sec. ____ . NEW SECTION. 4A.4 Information to be**
13 **reported by agencies to fiscal committee.**

14 Before October 30 of the calendar year in progress
15 two years prior to the calendar year in which a state
16 program subject to this chapter is scheduled to sunset,
17 the agency administering the program shall report all
18 of the following information to the committee:

19 1. Information regarding the applicability of the
20 program review criteria to the program.

21 2. Any other information that the agency considers
22 appropriate or that is requested by the committee.

23 **Sec. ____ . NEW SECTION. 4A.5 Sunset of programs —**
24 **committee — duties of the committee — reports.**

25 1. Before September 1 of the calendar year in
26 progress one year prior to the calendar year in which a
27 program subject to this chapter is scheduled to sunset,
28 the committee shall do all of the following:

29 a. Review and take action necessary to verify the
30 reports submitted by the agency pursuant to section
31 4A.4.

32 b. Consult with the appropriations committee of the
33 house of representatives, the appropriations committee
34 of the senate, the department of management, the
35 auditor of state, and the treasurer of state regarding
36 the applicability of the program review criteria to the
37 program.

38 c. Conduct a performance evaluation of the program
39 based on the program review criteria and prepare a
40 written report.

41 2. The written report prepared by the committee
42 pursuant to subsection 1 shall be submitted to the
43 general assembly with the report required under section
44 4A.7.

45 **Sec. ____ . NEW SECTION. 4A.6 Public hearings**
46 **conducted for programs subject to sunset.**

47 1. Between September 1 and December 1 of the
48 calendar year in progress prior to the calendar year in
49 which a program subject to this chapter is scheduled
50 to sunset, the committee shall conduct public hearings

1 concerning but not limited to the applicability of the
2 program review criteria to the program.

3 2. Notwithstanding subsection 1, the committee may
4 hold the public hearings prior to September 1 if the
5 evaluation of the program required by section 4A.5 is
6 complete and available to the public.

7 Sec. ____ . NEW SECTION. **4A.7 Report on programs**
8 **scheduled to be sunset — auditor report.**

9 1. At the beginning of each regular session of
10 the general assembly, the committee shall present to
11 the general assembly and the governor a report on the
12 programs scheduled to be sunset. In the report, the
13 committee shall include all of the following:

14 a. The committee's specific findings regarding each
15 of the program criteria.

16 b. The committee's recommendations, as specified by
17 section 4A.3.

18 c. Recommendations on the sunset, continuation, or
19 reorganization of each affected program and on the need
20 for the performance of the functions of the program.

21 d. Recommendations on the consolidation, transfer,
22 or reorganization of programs within agencies not under
23 review if the programs duplicate functions performed
24 by programs under review.

25 e. Recommendations as to the appropriate
26 appropriation levels for each program for which sunset
27 or reorganization is recommended pursuant to this
28 subsection.

29 f. Draft legislation necessary to carry out
30 the committee's recommendations pursuant to this
31 subsection.

32 g. Any other information the committee deems
33 necessary for a complete evaluation of the program.

34 2. On the date the committee presents its report
35 to the general assembly pursuant to subsection 1, the
36 committee shall present to the auditor of state the
37 committee's recommendations that do not require a
38 statutory change to be put into effect. The auditor
39 of state shall examine the recommendations and shall
40 prepare, as part of the next scheduled audit of the
41 program, a report on the manner in which the agency has
42 implemented the committee's recommendations.

43 Sec. ____ . NEW SECTION. **4A.8 Criteria considered by**
44 **committee.**

45 The committee shall consider all of the following
46 criteria in determining whether a public need
47 exists for the continuation of a program, or for the
48 performance of the functions of the program:

49 1. The program's operating efficiency.

50 2. An identification of the objectives intended for

1 the program and the problem or need that the program
2 was intended to address, the extent to which the
3 objectives have been achieved, and any activities of
4 the agency in addition to those granted by statute and
5 the authority for such activities.

6 3. An assessment of less restrictive or alternative
7 methods of protecting the public in lieu of any
8 existing rule or regulation applied by the agency.

9 4. The extent to which the jurisdiction of the
10 agency and the programs administered by the agency
11 overlap or duplicate those of other agencies and
12 the extent to which the programs administered by the
13 agency can be consolidated with the programs of other
14 agencies.

15 5. An assessment of the extent to which the agency
16 has recommended to the general assembly statutory
17 changes calculated to be of benefit to the public
18 rather than to an occupation, business, or institution
19 that the agency regulates.

20 6. An evaluation of the promptness and
21 effectiveness with which the agency disposes of
22 complaints concerning persons affected by the program.

23 7. An assessment of the extent to which the agency
24 has encouraged participation by the public in making
25 rules and decisions as opposed to participation solely
26 by those it regulates and the extent to which the
27 public participation has resulted in rules compatible
28 with the objectives of the program.

29 8. The extent to which the agency has complied with
30 applicable requirements of all of the following:

31 a. An agency of the United States or this state
32 regarding equality of employment opportunity and the
33 rights and privacy of individuals.

34 b. State law and applicable rules of any
35 agency regarding purchasing goals and programs for
36 historically underutilized businesses, including but
37 not limited to the goals for small businesses and
38 targeted small businesses in this state under section
39 73.16.

40 9. The extent to which changes are necessary in the
41 enabling statutes of the program so that the agency can
42 adequately comply with the criteria established in this
43 section.

44 10. The extent to which the agency issues and
45 enforces rules relating to potential conflicts of
46 interest of its employees.

47 11. The extent to which the agency complies with
48 chapter 22 and follows records management practices
49 that enable the agency to respond efficiently to
50 requests for public information.

1 12. The effect of federal intervention or loss of
2 federal funds if the program is sunset.

3 Sec. _____. NEW SECTION. **4A.9 Exemption for certain**
4 **agencies.**

5 1. In the two-year period preceding the date
6 scheduled for the sunset of a program in accordance
7 with this chapter, the committee may exempt the program
8 from the requirements of this chapter relating to staff
9 reports, hearings, and evaluations. The committee
10 shall only exempt a program that has been inactive for
11 a period of two years preceding the date the program is
12 scheduled to sunset.

13 2. The committee's action in exempting a program
14 pursuant to this section requires an affirmative record
15 vote of all members of the committee.

16 Sec. _____. NEW SECTION. **4A.10 Activities of the**
17 **general assembly not restricted.**

18 This chapter does not restrict the general assembly
19 from doing any of the following:

20 1. Terminating a program at a date earlier than
21 required in accordance with this chapter.

22 2. Considering any other legislation relative to a
23 program subject to this chapter.

24 Sec. _____. NEW SECTION. **4A.11 Duration of sunset**
25 **program — procedures for terminated programs.**

26 1. *a.* A program that is sunset may continue in
27 existence to conclude its business until September 1 of
28 the fiscal year following the fiscal year in which the
29 program was sunset. Unless the law provides otherwise,
30 the sunset of a program does not reduce or otherwise
31 limit the powers and authority of the agency during the
32 concluding year.

33 *b.* A program is terminated and shall cease all
34 activities on or before the date specified in paragraph
35 "a". Unless the law provides otherwise, all rules
36 adopted pertaining to the program shall expire on that
37 date.

38 2. *a.* Any unobligated or unexpended appropriations
39 of a sunset program lapse on the date specified in
40 subsection 1 and shall revert to the general fund of
41 the state on that date.

42 *b.* Except as provided by subsection 5 or as
43 otherwise provided by law, all moneys in a dedicated
44 fund of a program that is sunset in accordance with
45 this chapter shall be transferred to the general fund
46 of the state on the date specified in subsection 1.
47 Any law or portion of a law dedicating moneys to a
48 specific fund of a program that is sunset is void on
49 the date specified in subsection 1.

50 3. Unless the governor designates an appropriate

1 agency as described in subsection 4, the property and
2 records in the custody of an agency administering a
3 sunset program on the date specified in subsection
4 1 shall be transferred to the department of
5 administrative services. However, if the governor
6 designates an appropriate agency as described in
7 subsection 4, the property and records shall be
8 transferred to the designated agency.

9 4. a. In recognition of the state's continuing
10 obligation to pay bonded indebtedness and all other
11 obligations, including lease, contract, and other
12 written obligations, incurred by a program subject to
13 sunset in accordance with this chapter, the sunset
14 of the program shall not impair or impede payment
15 of bonded indebtedness and all other obligations,
16 including lease, contract, and other written
17 obligations, in accordance with their terms.

18 b. If an agency has outstanding bonded indebtedness
19 or other outstanding obligations for a program that is
20 sunset, including lease, contract, or other written
21 obligations, the bonds and all other such obligations
22 remain valid and enforceable in accordance with
23 their terms and subject to all applicable terms and
24 conditions of the laws and proceedings authorizing the
25 bonds and all other such obligations. The governor
26 shall designate an appropriate agency to continue
27 to carry out all covenants contained in the bonds
28 and all other such obligations, and the proceedings
29 authorizing them, including the issuance of bonds,
30 and the performance of all other such obligations
31 to complete the construction of projects or the
32 performance of other such obligations. The designated
33 agency shall provide payment from the sources of
34 payment of the bonds in accordance with the terms of
35 the bonds and shall provide payment from the sources of
36 payment from all other such obligations in accordance
37 with their terms, whether from taxes, revenues, or
38 otherwise, until the bonds and interest on the bonds
39 are paid in full and are performed and paid in full.
40 If the terms of the obligation so provide, all funds
41 established by law or proceedings authorizing the bonds
42 or authorizing other such obligations shall remain
43 with the treasurer of state or previously designated
44 trustees. If the proceedings do not provide that the
45 funds remain with the treasurer of state or previously
46 designated trustees, the funds shall be transferred to
47 the designated agency.

48 Sec. ____ . NEW SECTION. 4A.12 State agencies and
49 officers to provide assistance to committee.

50 1. The committee may request the assistance

1 of agencies and officers to assist in gathering
2 information pursuant to the committee objective.

3 2. In carrying out its functions pursuant to
4 this chapter, the committee may inspect the records,
5 documents, and files of any agency.

6 Sec. _____. NEW SECTION. 4A.13 Department of
7 workforce development to assist displaced employees.

8 If an employee is displaced because a program is
9 sunset, reorganized, or discontinued, the affected
10 agency and the department of workforce development
11 shall make a reasonable effort to relocate the
12 displaced employee.

13 Sec. _____. NEW SECTION. 4A.14 Rights and duties not
14 affected by program sunset.

15 Unless otherwise expressly provided by law,
16 the sunset of a program does not affect the rights
17 and duties that matured, penalties incurred or
18 imposed, civil or criminal liabilities that arose, or
19 proceedings initiated in connection with the program
20 before the effective date of the program's sunset.>

21 2. By renumbering as necessary.

SHAWN HAMERLINCK